IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY SIXTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GHULAM MOHAMMED

WRIT PETITION NO : 17443 of 1993

Between:

Nimmaka Relli, S/o.Thamayya,.
R/o. Seethampeta Village and Post,

Seethampeta Mandal, Srikakulam.

..... PETITIONER

AND

1 Government of A.P. Rep. Secretary
Social Welfare (F) Department, Secretariat,
Hyderabad.
2 Agent to the Governor of Andhra Pradesh,
Srikakulam Post, Srikakulam District.
3 Deputy Collector (Tribal Welfare)
Elwinpet, Vizianagaram.
4 Sepcial Deputy Tahsildar (Tribal Welfare)
Elwinpet, Vizianagaram.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Certiorari calling for the records relating to order of the 1st respondent in memo.No.369/F2/86-1, dated 17.4.1993 Social Welfare (F) Department and quash the same as arbitrary, illegal and void.

Counsel for the Petitioner: MR.M.P.CHANDRAMOULI

Counsel for the Respondents: GP FOR SOCIAL WELFARE

The Court made the following :

THE HONOURABLE SRI JUSTICE GHULAM MOHAMMED

WRIT PETITION NO.17443 OF 1993

ORDER:

This writ petition is filed seeking a writ of certiorari calling for the records pertaining to order of the 1st respondent-Government in Memo No.369/F2/86-1, Social Welfare (F) Department, dated 17.4.1993 and quash the same as the same is arbitrary and illegal.

The facts, which are necessary for appreciating the intricacies of the case, are that the petitioner belong to Pydi caste, which is a Hill Tribe and he possess certain extents of land in the tribal area. While so, the fourth respondent herein filed O.P.Nos.25 & 26 of 1982 against the petitioner before the 3rd respondent alleging that the petitioner belongs to a non-tribal community and that he is in possession of lands situated in tribal area and as such he is liable for eviction under the provisions of Andhra Pradesh (Scheduled Area) Land Transfer Regulation-I of 1959. The 3rd respondent herein ordered for eviction of the petitioner. The petitioner preferred an appeal before 2nd respondent herein and the second respondent rejected the same. Aggrieved by the same he filed revision before the 1st respondent-Government. The 1st respondent, vide impugned order rejected the revision. Hence, this writ.

The learned counsel for the petitioner contended that the 1st respondent without issuing any notice and without affording any opportunity of hearing in the revision, passed the impugned order without assigning any reasons and therefore the same is in contravention of principles of natural justice and is liable to be quashed.

The learned Government Pleader for Social Welfare fairly conceded the said fact. He stated that no opportunity of hearing was afforded to the petitioner herein.

A perusal of the impugned order shows that it is a non-speaking order and that no opportunity of hearing was afforded to the petitioner before passing the impugned order. In that view of the matter, I deem it appropriate to quash the order impugned and the matter is remitted to the revisional authority-1st respondent herein with a direction to dispose of the revision pending before him, after fixing date of hearing and affording an opportunity of hearing to the petitioner, within a period of two months from the date of receipt of a copy of this order.

Writ petition is disposed of with the above observation. No costs.

26.8.2004.

mdaa.

Copy to:

1. The Secretary to the Government of A.P.

Social Welfare (F) Department, Secretariat,
Hyderabad.

2 The Agent to the Governor of Andhra Pradesh,
Srikakulam Post, Srikakulam District..

3 The Deputy Collector (Tribal Welfare)
Elwinpet, Vizianagaram.

4 The Sepcial Deputy Tahsildar (Tribal Welfare)
Elwinpet, Vizianagaram.

5. Two C.Cs.for G.P. for Social Welfare, High Court of A.P., Hyderabad (OUT).

6. Two C.D.copies.